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**OFFICE OF PETITIONS**

**LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD NJ 07090**

In re Application of	:	
Joseph P. Errico et al	:	
Application No. 10/784,646	:	DECISION ON PETITION
Filed: February 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. F-269	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed March 19, 2009, to correct priority information.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title and an Application Data Sheet (ADS), to correct the relationship to the prior-filed applications.

The filing of a petition is not necessary to correct relationship (example, continuation to division) if the benefit claim to each of the applications were included in the specification upon filing of the above application. No new applications were included in the above petition seeking a benefit claim.

In view of the above, the \$1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

*Karen Creasy*

Karen Creasy  
Petitions Examiner  
Office of Petitions



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/784,646	02/23/2004	3738	435	F-269	20	1

**CONFIRMATION NO. 8184**

**CORRECTED FILING RECEIPT**



OC000000035439894

530  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD, NJ 07090

Date Mailed: 04/10/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

## Applicant(s)

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Rafail Zubok, Midland Park, NJ;

**Power of Attorney:** The patent practitioners associated with Customer Number 36402

## Domestic Priority data as claimed by applicant

This application is a CON of 10/282,356 10/29/2002 PAT 7,169,182  
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032  
which is a CIP of 10/175,417 06/19/2002  
which is a CIP of 10/151,280 05/20/2002  
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730  
and is a CIP of 10/140,153 05/07/2002 ABN  
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730  
which is a CIP of 09/968,046 10/01/2001 ABN  
and said 10/140,153 05/07/2002  
is a CIP of 10/128,619 04/23/2002 PAT 6,863,689  
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559  
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

## Foreign Applications

**If Required, Foreign Filing License Granted: 05/18/2004**

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,646**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**\*\* SMALL ENTITY \*\***

**Title**

Artificial intervertebral disc trial having a controllably separable distal end

**Preliminary Class**

606

## **PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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**Title 37, Code of Federal Regulations, 5.11 & 5.15**

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